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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 3:18-CR-00310 EMC
	)	
Plaintiff,	)	
	)	UNITED STATES' RESPONSE TO
v.	)	DEFENDANT'S MOTION RE SCHEDULING
	)	
LAWRENCE J. GERRANS,	)	
a/k/a LARRY GERRANS,	)	
	)	
Defendant.	)	

The United States submits this brief memoranda in advance of the telephonic Status Conference set for June 3, 2020, in response to the defendant's motion and to propose a briefing schedule.

On May 27, 2020, the Court directed that the hearing for post-trial motions would held be held on August 20, 2020, the same date for which the Court had previously rescheduled the sentencing hearing. Dkt 232 (Clerk's Notice). The Court also set forth a briefing schedule ordering post-trial motions should be filed by July 9, 2020. *Id.* Shortly before midnight on May 27, 2020, after the Court issued its briefing schedule, the defendant filed an *ex parte* application regarding the August 20, 2020

1 hearing date. Dkt 233. This filing apparently followed an *ex parte* communication by defendant's  
2 counsel to the Court without notice to the government. *See* Dkt 236. The May 27, 2020 midnight filings  
3 included a 53-page memorandum in support of a defense motion for a new trial (Dkt 235) and a 20-page  
4 motion for judgment notwithstanding the verdict (Dkt 234). Several declarations and more than 300  
5 pages of exhibits accompanied the motions. The late-night filings are untimely and improper, as  
6 discussed below, but even if they were appropriate post-trial motions, they were not due until July 9,  
7 2020, and will not be heard until August 20, 2020, under the Court's May 27, 2020 scheduling order. On  
8 May 28, 2020, the Court set a June 3, 2020 Status Conference to address the schedule for briefing and  
9 hearing any post-trial motions. Dkt 236.

10 Both of defendant's motions are untimely under the Federal Rules of Criminal Procedure, and  
11 the motion for a new trial, Dkt 235, was filed in contravention of this Court's local rules that mandate  
12 that briefs or memoranda may not exceed 25 pages.

13 First, the motion for a new trial is more than double the length permitted by this Court's local  
14 rules (*see* Civil L.R. 7-2(b) which applies to criminal motions, *see* Criminal L.R. 47-2(b)). The  
15 government respectfully requests the Court to order the defendant to resubmit his motion for new trial  
16 by June 18, 2020 with a memorandum that is 25 pages or less.

17 Second, Fed. R. Crim Pro 33 requires that any motion for new trial must be filed within 14 days  
18 of the verdict, unless the motion is based on newly discovered evidence. The jury's verdict in this case  
19 was rendered on January 29, 2020. The defendant has not moved for a new trial based upon newly  
20 discovered evidence, and never sought relief from the deadline of Rule 33. The motion is therefore  
21 barred from any consideration by this Court.

22 Third, the defendant's Rule 29 motion for acquittal (Dkt 234) is similarly untimely. Fed. R. Crim  
23 Pro 29(c)(1) requires a motion for judgment notwithstanding the verdict to be filed within 14 days of the  
24 verdict or after the Court discharges the jury, whichever is later. The defendant's motion was filed  
25 almost 4 months after the jury rendered its verdict and was discharged. This motion too is also barred  
26 from any consideration by this Court.

27 Finally, to the extent that there are any timely post-trial motions, the government agrees with the  
28 Court's prior determination that post-trial motions will be heard on August 20, 2020, the date of the

1 sentencing hearing. On January 29, 2020, following the jury verdict, the Court ordered that the forfeiture  
 2 allegations would be heard on the date of the sentencing hearing, which the Court initially set for May  
 3 20, 2020. Dkt 143 (Minutes). On April 11, 2020, after the defendant filed a motion to continue certain  
 4 dates related to the preparation of the Presentence Report and to take the sentencing off-calendar, the  
 5 Court continued the date for the sentencing hearing and forfeiture proceedings to June 25, 2020. Dkt 203  
 6 (Clerk's Notice). On May 13, 2020, six weeks before the then-scheduled hearing date, the defendant  
 7 filed an emergency motion to continue the sentencing, and the Court continued the sentencing and  
 8 forfeiture hearing to August 20, 2020. Dkt 224 and 225 (Clerk's Notices). On May 27, 2020, the Court  
 9 set a briefing schedule for post-trial briefing, and ordered that any hearing on post-trial motions will take  
 10 place on the date of the sentencing hearing, August 20, 2020. Dkt 232.

11 In light of the Court's prior orders, in order to preserve the resources of the Court, and in order to  
 12 minimize the burden and risk to court staff, counsel, and other parties during the pandemic (including  
 13 consideration of the special measures adopted by the Court for in-person hearings), the government  
 14 requests that the hearing on any post-trial motions continue to be heard at the hearing currently set for  
 15 August 20, 2020. In addition, the government proposes the following modified briefing schedule, to  
 16 provide counsel with opportunity to adequately prepare and the Court time to consider the briefing:

- 17 • Post-trial motions, including any motions regarding forfeiture and the refile of any  
 18 post-trial motion in compliance with Local Rules regarding page limits, filed by 5:00  
 19 p.m. on June 18, 2020.
- 20 • Responses to post-trial motions filed by 5:00 p.m. on July 16, 2020.
- 21 • Replies to post-trial motions filed by 5:00 p.m. on July 30, 2020.

22 DATED: June 2, 2020

Respectfully submitted,

23 DAVID L. ANDERSON  
 24 United States Attorney

25  
 26 /s/  
 27 ROBIN HARRIS  
 28 LLOYD FARNHAM  
 Assistant United States Attorney